

REMARKS/ARGUMENTS

The helpful assistance courteously extended by the Examiner to the undersigned during the personal interview conducted February 12, 2007 is acknowledged with appreciation.

Independent claims 1, 20, 23, 28, 30, 33, 40, 41, 42, 45, 46, 47, 48, 49 and 50 are pending in the present application along with a number of dependent claims.

During the interview, the Examiner stated that independent claims 48 and 50 are allowable over the prior art of record.

Further, during the interview the Examiner stated that independent claims 1, 20 and 28 would be allowable over the prior art of record if certain agreed-upon changes were to be made thereto. Those agreed-upon changes have been incorporated into these claims as presented hereinabove. Thus, claims 1, 20 and 28 are allowable.

Independent claims 33, 40 and 47 have been revised similarly to allowable claim 1. Thus, these claims are also allowable.

Independent claims 23, 41 and 42 have been revised similarly to allowable claim 20 and, thus, are also allowable.

Independent claims 30, 45 and 46 have been revised similarly to allowable claims 28 and, thus, are also allowable.

Patentability of Independent Claim 49

Claim 49 has been rejected under 35 USC 103(a) as being unpatentable over Teshima in view of Owensby (USP 6,647,257). Reconsideration and withdrawal of this rejection are respectfully requested in light of the following remarks.

Preliminary Amendment

Claim 49 specifies that the message can be in “at least one of data, text, audio and video modes”, and further that “a mode in which said message is reproduced for the intended recipient is in accordance with a setting controlled by the intended recipient.” In commenting on claim 49, the Examiner concedes that “Teshima fails to teach wherein a mode in which the message is reproduced for the intended recipient is in accordance with a setting controlled by the intended recipient.” However, the Examiner attempts to bridge this gap by relying on Owensby which he contends shows “a mode in which the message is reproduced for the intended recipient ... in accordance with a setting controlled by the intended recipient (Col. 9 line 50 – Col. 10 line 11).” The Examiner then posits that the combination of these two references is obvious.

Owensby discloses a technique for providing targeted messages, namely advertisements, to subscribers of a mobile communication service. If a subscriber agrees to receive such an advertisement or advertisements at the beginning of a call and/or during a call, s/he gets a reduction in the air time fees. The subscriber’s preferences can be pre-arranged prior to the reception of a call. However, Owensby discloses one embodiment in which the subscriber is given an opportunity to affect the transmission of advertisements even after the call is initiated. Col. 9 line 50 to col. 10 line 11 describe this embodiment. It is also described in col. 21, lines 58-67. More specifically,

“Subscribers who are charged air time fees for inbound calls likewise may have their inbound calls subsidized. In such cases, the Call Management System 20 will follow the procedure set forth above once an advertisement is selected for inclusion into the call routine, except that after the call has been connected, the subscriber will be warned that an advertisement insertion is pending and will be given an opportunity to cancel the advertisement insertion by pressing a key on the keypad, or by making a voice command if the system is capable of recognizing such a command.”

Thus, the subscriber can control whether or not s/he gets the advertisement, and such control can be effected in any one of several modes, such as keypad or voice. However, this is not what is involved in the present invention, as disclosed and claimed. The present invention involves the

Preliminary Amendment

mode in which the message is reproduced being “at least one of data, text, audio and video.” In contrast, all Owensby discloses is the mode in which the subscriber presents the control instructions, not the mode in which the message will be reproduced. In fact, Owensby does not permit the subscriber any control over the mode in which the message is reproduced.

Since Owensby is completely lacking the key limitations of the present claimed invention as recited in claim 49, a combination of Teshima and Owensby cannot obviate the invention. Thus, claim 49 is clearly unobvious thereover, and is in condition for allowance.

Patentability of Dependent Claims

Claims 2-6 and 9-19 depend from allowable claim 1. Thus, each of such dependent claims is allowable therewith. Moreover, these claims include features which serve to even more clearly distinguish the present invention over Teshima. For example, the Examiner’s attention is drawn to the features of claims 3 and 10 which have been discussed hereinabove.

Claims 21 and 22 are allowable along with claim 20 from which they depend.

Claims 24 and 25 are allowable along with claim 23 from which they depend.

Claim 29 is allowable along with claim 28 from which it depends.

Claims 31 and 32 are allowable along with claim 30 from which they depend.

Claims 34-39 are allowable along with claim 33 from which they depend.

Conclusion

Based on all of the above, it is respectfully submitted that the present application is now in proper condition for allowance. Prompt and favorable action to this effect and early passing of this application to issue are respectfully solicited.

Preliminary Amendment

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP

By Thomas Langer
Thomas Langer
Reg. No. 27,264
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: February 26, 2007